

Senate Bill 196

By: Senators Jackson of the 24th, Douglas of the 17th, Goggans of the 7th, Thomas of the 54th, Powell of the 23rd and others

AS PASSED

AN ACT

To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to change certain provisions relating to driver's license requirements; to change certain provisions relating to driving while license is suspended or revoked; to revise penalties for causing serious injury due to a right of way violation resulting in a collision with a motorcyclist, pedestrian, bicyclist, or farmer hauling agricultural products; to provide a penalty for a second offense; to provide for license suspension; to change provisions relating to pedestrians walking on or along a roadway; to increase the assessment fees for approved DUI Alcohol or Drug Use Reduction Programs; to authorize local governments by ordinance or resolution to authorize the operation of bicycles on sidewalks by certain persons within the jurisdiction of such local governments; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by revising subsection (a) of Code Section 40-5-20, relating to driver's license requirement, as follows:

"(a) No person, except those expressly exempted in this chapter, shall drive any motor vehicle upon a highway in this state unless such person has a valid driver's license under this chapter for the type or class of vehicle being driven. Any person who is a resident of this state for 30 days shall obtain a Georgia driver's license before operating a motor vehicle in this state. Any violation of this subsection shall be punished as provided in Code Section 40-5-121, except the violation of driving with an expired license, or a violation of Code Section 40-5-29 or if such person produces in court a valid driver's license issued by this state to such person, he or she shall not be guilty of such offenses. Any court having jurisdiction over traffic offenses in this state shall report to the department the name and other identifying information of any individual convicted of driving without a license."

SECTION 2.

Said title is further amended in Article 3 of Chapter 5, relating to cancellation, suspension, and revocation of licenses, by adding a new Code section to read as follows:

"40-5-57.3.

(a) The driver's license of any person who is convicted for a second or subsequent offense of violating Code Section 40-6-77 within a five-year period of time, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a conviction is obtained or a plea of nolo contendere is accepted, shall be suspended for 30 days. The person shall submit his or her driver's license to the court upon conviction and the court shall forward the driver's license to the department.

(b) After the suspension period and the person pays a restoration fee of \$60.00 or, when processed by mail, \$50.00, the suspension shall terminate and the department shall return the person's driver's license to such person."

SECTION 3.

Said title is further amended by revising subsection (a) of Code Section 40-5-121, relating to driving while license suspended or revoked, as follows:

"(a) Except when a license has been revoked under Code Section 40-5-58 as a habitual violator, any person who drives a motor vehicle on any public highway of this state without being licensed as required by subsection (a) of Code Section 40-5-20 or at a time when his or her privilege to so drive is suspended, disqualified, or revoked shall be guilty of a misdemeanor for a first conviction thereof and, upon a first conviction thereof or plea of nolo contendere within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained or a plea of nolo contendere is accepted, shall be fingerprinted and shall be punished by imprisonment for not less than two days nor more than 12 months, and there may be imposed in addition thereto a fine of not less than \$500.00 nor more than \$1,000.00. Such fingerprints, taken upon conviction, shall be forwarded to the Georgia Crime Information Center where an identification number shall be assigned to the individual for the purpose of tracking any future violations by the same offender. For the second and third conviction within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a conviction is obtained or a plea of nolo contendere is accepted, such person shall be guilty of a high and aggravated misdemeanor and shall

be punished by imprisonment for not less than ten days nor more than 12 months, and there may be imposed in addition thereto a fine of not less than \$1,000.00 nor more than \$2,500.00. For the fourth or subsequent conviction within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a conviction is obtained or a plea of nolo contendere is accepted, such person shall be guilty of a felony and shall be punished by imprisonment for not less than one year nor more than five years, and there may be imposed in addition thereto a fine of not less than \$2,500.00 nor more than \$5,000.00."

SECTION 4.

Said title is further amended by revising Code Section 40-6-77, relating to penalties for causing serious injury due to right of way violation resulting in a collision with a motorcyclist, pedestrian, bicyclist, or farmer hauling agricultural products, as follows:

"40-6-77.

(a) For purposes of this Code section, 'serious injury' shall include, but shall not be limited to, causing bodily harm to another by depriving him or her of a member of his or her body, by rendering a member of his or her body useless, by seriously disfiguring his or her head or body or a member thereof, or by causing organic brain damage which renders the body or any member thereof useless.

(b) Any person who causes a serious injury to another person as a result of a collision with a motorcyclist, bicyclist, pedestrian, or farmer operating any vehicle used to transport agricultural products, livestock, farm machinery, or farm supplies by committing any right of way violation under this chapter when such motorcyclist, bicyclist, pedestrian, or farmer operating any vehicle used to transport agricultural products, livestock, farm machinery, or farm supplies is abiding by the provisions of this title shall be guilty of a misdemeanor and shall be punished:

(1) For a first offense, by a fine of not less than \$250.00 in addition to any other penalties stipulated by law and the court shall report such conviction to the Department of Driver Services; and

(2) For a second or subsequent offense within a five-year period of time, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a conviction is obtained or a plea of nolo contendere is accepted, by a fine of not less than \$500.00 nor more than \$1,000.00 and imprisonment for not less than ten days nor more than 12

months. Any fine imposed under this paragraph shall be mandatory and shall not be suspended or waived or conditioned upon the completion of any course or sentence. The court imposing punishment under this subsection shall forward a record of the disposition of the case to the Department of Driver Services."

SECTION 5.

Said title is further amended by revising Code Section 40-6-96, relating to pedestrians walking on or along a roadway, as follows:

"40-6-96.

- (a) As used in this Code section, the term 'pedestrian' means any person afoot and shall include, without limitation, persons standing, walking, jogging, running, or otherwise on foot.
- (b) Where a sidewalk is provided, it shall be unlawful for any pedestrian to stand or stride along and upon an adjacent roadway unless there is no motor vehicle traveling within 1,000 feet of such pedestrian on such roadway or the available sidewalk presents an imminent threat of bodily injury to such pedestrian.
- (c) Where a sidewalk is not provided but a shoulder is available, any pedestrian standing or striding along and upon a highway shall stand or stride only on the shoulder, as far as practicable from the edge of the roadway.
- (d) Where neither a sidewalk nor a shoulder is available, any pedestrian standing or striding along and upon a highway shall stand or stride as near as practicable to an outside edge of the roadway, and, if on a two-lane roadway, shall stand or stride only on the left side of the roadway.
- (e) Except as otherwise provided in this chapter, any pedestrian upon a roadway shall yield the right of way to all vehicles upon the roadway.
- (f) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate, or barrier after a bridge operation signal indication has been given.
- (g) No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed."

SECTION 6.

Said title is further amended by revising subsection (e) of Code Section 40-5-83, relating to establishment and approval of driver clinics and programs, as follows:

"(e) The department is designated as the agency responsible for establishing criteria for the approval of DUI Alcohol or Drug Use Risk Reduction Programs. An applicant shall meet the certification criteria promulgated by the department through its standards and shall provide the following services: (1) the assessment component and (2) the intervention component. The department is designated as the agency responsible for establishing rules and regulations concerning the contents and duration of the components of DUI Alcohol or Drug Use Risk Reduction Programs, qualifications of instructors, attendance requirements for students, examinations, and program evaluations. Qualified instructors shall be certified for periods of four years each, which may be renewed. Approved DUI Alcohol or Drug Use Risk Reduction Programs shall charge a fee of \$82.00 for the assessment component and \$190.00 for the intervention component. An additional fee for required student program materials shall be established by the department in such an amount as is reasonable and necessary to cover the cost of such materials. No DUI Alcohol or Drug Use Risk Reduction Program shall be approved unless such clinic agrees in writing to submit reports as required in the rules and regulations of the department and to allow the examination and audit of the books, records, and financial statements of such DUI Alcohol or Drug Use Risk Reduction Program by the department or its authorized agent. DUI Alcohol or Drug Use Risk Reduction Programs may be operated by any public, private, or governmental entity; provided, however, that, except as otherwise provided in this subsection, in any political subdivision in which a DUI Alcohol or Drug Use Risk Reduction Program is operated by a private entity, whether for profit or nonprofit, neither the local county board of health nor any other governmental entity shall fund any new programs in that area. Programs currently in existence which are operated by local county boards of health or any other governmental entities shall be authorized to continue operation. New programs may be started in areas where no private DUI Alcohol or Drug Use Risk Reduction Programs have been made available to said community. The Department of Corrections is authorized to operate DUI Alcohol or Drug Use Risk Reduction Programs in its facilities where offenders are not authorized to participate in such programs in the community, provided that such programs meet the certification criteria promulgated by the Department of Driver Services. All such programs operated by the Department of Corrections shall be exempt from all fee provisions established in this subsection specifically including the rebate of any fee for the costs of administration. No DUI Alcohol or Drug Use Risk Reduction Program shall be approved unless such clinic agrees in writing to pay to the state, for the costs of administration, a fee of \$22.00, for each offender assessed or each offender attending for points reduction, provided that

nothing in this Code section shall be construed so as to allow the department to retain any funds required by the Constitution of Georgia to be paid into the state treasury; and provided, further, that the department shall comply with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,' except Code Section 45-12-92, prior to expending any such miscellaneous funds."

SECTION 7.

Said title is further amended by revising Code Section 40-6-144, relating to emerging from alley, driveway, or building, as follows:

"40-6-144.

The driver of a vehicle emerging from an alley, building, private road, or driveway within a business or residential district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance, road, or driveway or, in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon. The driver of a vehicle shall yield the right of way to any pedestrian on a sidewalk. Except as provided by resolution or ordinance of a local government for sidewalks within the jurisdiction of such local government authorizing the operation of bicycles on sidewalks by persons 12 years of age or younger, no person shall drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized driveway."

SECTION 8.

This Act shall become effective on July 1, 2009.

SECTION 9.

All laws and parts of laws in conflict with this Act are repealed.